

STORM OVER THE INVESTIGATING COMMITTEES

The Charges Against Them and the Record

JAMES RORTY

BECAUSE the House Committee on Un-American Activities failed to give the notorious American neo-Nazi James A. Madole and the violently anti-Semitic Conde McGinley a chance to be heard before releasing its "Preliminary Report on Neo-Fascist and Hate Groups," it has been reprobated by liberals in general and by a number of Jewish agencies in particular as unfair and un-American.* This would seem to mark the *reductio ad absurdum* of what might be called the "Civil Liberties First" position. In effect, it is maintained that, regardless of the public danger involved, *no* Congressional investigation of subversion, whether of the left or

the right, must be permitted to deviate by one jot or tittle from orthodox civil-liberties dogma.

For a long time now liberals who lamented the "ordeal by slander" of Owen Lattimore, and swallowed whole the confraternity of camels that enabled the bureaus and publications of the Institute of Pacific Affairs to be used for the ends of Communist policy and propaganda, have, while making certain justifiable criticisms, been straining at sundry gnats in the procedures of the Congressional investigating committees. Errors which were real and flagrant in the case of the McCarthy travesties have been attributed by implication, and often quite falsely, to *all* investigating committees. These have been covered with a blanket condemnation, usually without *specific* reference or constructive analysis of the alleged violations of rights and procedures under liberal attack. Moreover, this condemnation was rarely coupled with any recognition of the realities of the subversion with which these committees were occupied. The attack has extended even further: to the impugning and discrediting of the very institution of the Congressional investigating committee.

In the case of the Velde Committee's report on neo-fascist and hate groups, the "victims" of Congressional inquisition are certainly among the most noisome animals in the anti-democratic zoo, and the procedural gnat is tiny indeed. For, while certainly regrettable, the failure to hear Madole, McGinley, and their associates did not affect in

TO ANYONE who reads the papers it is hardly news that enlightened people, liberal and conservative, have for some time been indignant over the Congressional committees investigating subversion—not only Senator McCarthy's, but all of them. How far liberal hostility to these committees had gone was revealed by the thunder that struck the Velde Committee when it released its preliminary report on its investigation of American neo-Nazi and hate groups. Here JAMES RORTY reports and analyzes the furor and puts it in perspective by citing the record of the committees on subversion: their errors and achievements in the touchy business of exposing anti-democratic conspiracies against our society, with due regard for individual rights. Mr. Rorty, well known to readers of this magazine, has many books to his credit and a long journalistic career behind him devoted to social and civil liberties problems. Among his books are *His Master's Voice*, *American Medicine Mobilizes*, and most recently, with Moshe Decter, *McCarthy and the Communists*. Mr. Rorty's article "What Price McCarthy Now?" appeared last month. Perhaps we should remind our readers that this, like all articles in COMMENTARY, is in no sense an expression of the official views of the magazine or its sponsors.

*A notable exception was the American Jewish Committee whose president, Irving M. Engel, described the Velde Committee's report as "an eloquent, timely, and instructive warning to the American people of the dangers presented by groups on the extreme right," though the AJC criticized some of the committee's procedures.

the least the validity of what was avowedly a preliminary report, nor did it inflict any injustice upon the persons accused.

The American Civil Liberties Union liberals who defended the civil liberties of the Bund during the last war are at least being consistent. Not so, to take another example, the American Jewish Congress. Yesterday that organization was denouncing the House Committee on Un-American Activities for refusing to investigate John O'Donnell, *Daily News* columnist, for saying that the censure of General Patton had been inspired by Jews. "Uncertainty seems to cloud only the Committee's attitude toward the un-American activities of those serving the cause of fascism," the *Congress Weekly*, its organ, editorialized (November 23, 1945). Yet now the *Congress Weekly* writes: "Our freedoms are a seamless web. . . . By condoning the employment of arbitrary and unfair practices against those whose opinions we loathe, we are ultimately sanctioning the use of such practices against ourselves. . . . We are confident that the overwhelming majority of the Jewish Community will continue to insist that Congressional Committees shall respect the rights of all persons and groups, even when their views are as obnoxious as those of the National Renaissance Party and Conde McGinley. . . ."

Not only is this a worn and dated record; it is played, one feels, by the wrong disk jockey at the wrong time. Nor does it sound any fresher when it is put on by the American Civil Liberties Union—the same ACLU that saw in the Peekskill riots only an occasion for protecting "freedom of speech" for Paul Robeson along with the "right" of Communists to organize an armed provocation for international propaganda purposes.

In a letter to Congressman Velde, the ACLU's Executive Director Patrick Murphy Malin wrote in part: "The ACLU, as a non-partisan, private organization dedicated to the promotion of the Bill of Rights, has steadfastly maintained that persons or groups have a right to be heard by the Congressional Committee reporting on their activities.

"We regret that this has not been done for those concerned in the investigation of the 'hate' groups about whom the Committee is reporting, and submit that such denial to a hearing is contrary to the Committee's rules promulgated on July 14, 1953. We regret further that the mentioned report was leaked to the press before being subjected to full committee consideration.

"We have further maintained that it should not be the function of Congressional investigations to inquire into political beliefs and associations. It is essential to the health of our democratic process that free men be guaranteed the right to maintain their political views and associations free from governmental inquiry. It is this personal guarantee which makes our society fundamentally different from a totalitarian society. . . . Of course, should there be any indication that these individuals and groups are engaging in subversive activities, it would be within the jurisdiction of the Committee to investigate their activities. . . ."

One would be happier about this last saving sentence if one did not remember how desperately hard it has been to meet the ACLU's high standards for subversion; where Joe Doakes—and ultimately the courts—have seen treason, the ACLU has often seen only dissent or non-conformity—on the left or on the right. But the most categorical rejection of the Velde Committee's effort came from the *Washington Post*. Herblock's cartoon showed Congressman Velde presenting his report to a shocked Uncle Sam, under the caption: "See—We're Completely Impartial in Our Unfairness."

One cannot fairly demand that a cartoon tell the truth, the whole truth, and nothing but the truth. But Herblock's drawing suggests only the tiniest fraction of the truth. Moreover, its effect, like that of the ACLU's letter, was to abort the potential usefulness of a report which, while revealing little very new, was clearly in the public interest—by all reasonable, as well as traditional American standards—and well within the Committee's mandate.

Right-wing totalitarianism, whether do-

mestic or imported, is as much the proper concern of Congress as was the exposure of interlocking subversion in government departments. The Un-American Activities Committee, on the record, can claim priority in the exposure of both fascist and Communist activities—a fact that many civil libertarians conveniently forgot when they deplored, as many of them did, the Committee's persistence in exposing Communists, and when they attacked the "fascist" tendencies of this and other committees, even going so far as to attribute fascist sympathies and affiliations to their members. The fact is that in the present report the Committee merely returns to the field of inquiry which it opened up when in 1938 it investigated the activities of the German-American Bund. Again, in the present report, it tells the country, under the imprimatur of the oldest Congressional committee investigating subversion, what the country very much needs to know: that the anti-Semitic totalitarianism of the "right" is not the invention of "hysterical" or "Zionist" Jewish defense organizations, as "rightist" hate-mongers have been alleging with some effect even among respectable circles that should know better. It shows that, on the contrary, Messrs. Madole and McGinley are actively and openly—far more openly than the Communists—engaged in fostering racial and religious discrimination and hatred, in fomenting divisiveness and disorder, and in lending aid and comfort to Communist policy and propaganda in the cold war. In the case of Madole, the report shows, without going beyond documentary evidence, that he has organized a para-military force for the support of his totalitarian party and program.

LET us look at the Madole record, as we find it in the Committee's preliminary report.

James A. Madole founded his National Renaissance party at his former home in Beacon, New York, which is a few miles north of Peekskill, in January of 1949. A few months later the state police caught him distributing anti-Semitic pamphlets during the Peekskill riots, and sent him packing.

Today, after six years of healing and speech-making on Yorkville street corners, of abortive attempts to found branches in half a dozen cities, and of grandiose plans "to coordinate racial nationalist activities in America, Europe, Africa and Asia," the National Renaissance party boasts a membership of from 200 to 700, which is apparently declining, and maintains only a mimeographed and sporadically issued *NRP Bulletin*.

Some of Madole's followers are hangovers from the pre-war Bund movement. Others are ex-Communists—defectors from the Jefferson School and Communist youth groups. A few appear to have been West German neo-Nazis, members of Otto Remer's recently banned Socialist Reich party.

The portrait of Adolf Hitler is their icon, heiled by a uniformed "elite guard"; anti-Semitism is their theme song and in their demonology Zionism is allied with Communism for the conquest of the world.

"Eventually," writes Madole in the October *NRP Bulletin*, "America must admit her debt to Adolf Hitler who first called upon all Aryan people to unite and challenge Jewish economic and political power. . . . America is the last obstacle in the path of Jewish conquest. Either the Aryan or the Jew must yield in the world struggle. The goal of our National Renaissance Movement becomes clear."

During the Prague trials and other purges of Jews behind the Iron Curtain, the NRP defended the Communist leadership and implied that Europe and America should follow the Soviet example. An NRP pamphlet entitled *Brotherhood*, distributed in 1953 and 1954, blazoned the headlines: "In Russia they Execute Them the Prague and Beria Way! In U.S.A. They Promote Them the Dexter White Way!"

Now for Conde McGinley, as exposed in the Committee report.

McGinley's semi-monthly magazine *Common Sense*, which he edits and publishes from his print shop in Unionville, New York, is probably the most successful anti-Semitic racket now operating in this country. In addi-

tion to the magazine, which sometimes has a print order of over 100,000 and averages around 50,000, McGinley prints innumerable pamphlets, and his office serves as a clearing house for hate propagandists throughout the country.

Common Sense, the first issue of which appeared in June 1947, is the successor of other McGinley publications variously entitled *Think*, *The Think*, and *Think Weekly*. Its anti-Semitic line became virulent in 1948, when it defended Robert H. Best, the American newsman who was convicted of treason and sentenced to life imprisonment for his wartime service to the Nazis as a radio propagandist. McGinley defines Communism as "a false face for Judaism." Typical headlines appearing in the magazines are: "Jewish Leaders Are Crazy for Power"; "Zionists Threaten Russia with War"; "Brotherhood—Jew Trap for Christianity"; "Invisible Government Rules Both Parties—Adlai and Ike Marxist Stooges."

In the December 1, 1952 issue of *Common Sense*, a contributor, George Thomas Adams, echoing Madole's approval of the purges of Jews behind the Iron Curtain, wrote: "... If the Russian people wish to throw off their Jewish yoke, what right have we to criticize them? ... We should be doing the same."

In collaborating with Communist propaganda denouncing the United States as a "war-monger," McGinley has gone even further than Madole. In the March 15, 1953 issue of *Common Sense*, he writes: "A quick war, with or without the consent of Congress, is reportedly planned within 60 days. The Zionists are now ready to supplant their Soviet brethren. There is no difference between Palestinian Socialism and Russian Socialism. Palestine is solidly Marxist in leadership, in political parties, in rule, aim and objective. ... You and your neighbor's 19-year-old boy is scheduled to be drafted for *Global Zionism* this next month in 41 states. Our blood and treasure are being strewn across the earth with little complaint from us 'slaves who are considered the property of the MASTER'."

During the eight years of its existence,

states the Committee report, *Common Sense* has opened its columns regularly to many racist and ultra-nationalist propagandists. Among the contributors to *Common Sense* have been Eustace Mullins, W. Henry MacFarland, Jr., Frederick Charles F. Weiss, and Kurt Mertig, all of whom have associated themselves with the National Renaissance party; also Robert W. Williams, of Santa Ana, California, Mrs. Elizabeth Dilling, Mrs. Lyril Clark Van Hynning, Colonel Eugene Sanctuary, and General George Van Horn Mosely, retd., who in 1940 was proposed as national leader of an abortive attempt to form a coalition of American fascist and hate groups that was exposed by the Un-American Activities Committee.

One of McGinley's angels is the Jewish anti-Semite Benjamin Freedman, who told the Armed Services Committee on December 12, 1950 that he had given \$15,000 to *Common Sense*. In July of 1952 McGinley and his associates staged a Chicago meeting which he called an "annual convention of nationalists." Among the 200 delegates to this convention were many of the previously mentioned contributors to *Common Sense*.

CERTAINLY in the light of this record, Madole and McGinley have done more than merely hold totalitarian *opinions*. The ACLU throws away its case when it acknowledges that it is within the jurisdiction of the Committee to investigate subversive activities. For on the evidence as to their activities as reported in their own public and official statements alone, both agitators might well be considered subversive.

It would have been very much better, of course, if Madole, McGinley, and their associates had been subpoenaed to testify before the Committee—in executive sessions only, since they might have been expected to exploit public hearings for propaganda purposes, as did the Communists. Why this wasn't done is difficult to understand, since it would have required little time or trouble simply to confront Madole and McGinley with the files, respectively, of the *National Renaissance Party Bulletin* and *Common*

Sense, and establish their responsibility for these publications, which they have never denied. Nor is it at all probable that they would have claimed the immunity of the Fifth Amendment against testifying.

The unfairness, however, of Herblock's jibe becomes apparent when it is realized that in the Velde Committee's report both agitators are accused principally by their own frank utterances. These are fully quoted, and the essential documents are reproduced in the appendix of the report. In no case does the Committee rip fragments out of context and subject them to dubious interpretation in McCarthy's manner.

The ACLU's charge that the Velde report violates the Committee's rules of procedure as promulgated on July 15, 1953 is equally without substance, since these rules specifically state that preliminary investigations may be initiated by the Committee's staff with the approval of the chairman. That the contents of the report were leaked to the press in advance of its official publication is true but unimportant, since seven of the nine members of the Committee later approved the report with only two abstentions.

Thus the civil libertarians' objections to the report reduce to the unfortunate, if inconsequential, mistake of failing to hold executive hearings, an omission which the Committee will presumably repair when it enlarges the scope of its preliminary inquiry—admittedly little more than a trial run.

PROBABLY no one was more bewildered and dismayed by the libertarian reaction to the Velde Committee's report than its two principal objects, who must have had to do a lot of explaining to their followers. What, in the name of all that is Nazi, does a hard-working hate merchant have to do to be damned? It is bad enough to be cold-shouldered by their hero, Senator McCarthy. But to be defended by the *Washington Post*, the American Jewish Congress, and the American Civil Liberties Union! It will be hard to persuade these characters that this wasn't just another dirty Jewish-Communist trick.

It will also be hard, one suspects, to per-

suade very many Jews, or for that matter, very many Gentiles, that the "Preliminary Report on Neo-Fascist and Hate Groups" represents an excursion outside the proper terrain of a Congressional investigating committee, or that it was a waste of Congressional time and money.

Unquestionably, Mr. Velde hit the right targets in this inquiry. Madole and McGinley are not the most important neo-fascist agitators and hate merchants in America. But they are probably the most violent, the most forthright, and therefore the most vulnerable of the half-hundred more or less racist, more or less totalitarian agitators who have weathered the hard times that followed the defeat of Nazism in Europe.

Moreover, both agitators are linked by interest, and to some degree by actual collaboration, with the more important figures which the Committee may be expected to question in executive session when its inquiry is resumed. Hence the preliminary report on Madole and McGinley is not only valuable in itself, but a good way to begin the unraveling of the network of half-open, half-Aesopian agitation and propaganda operated by Gerald L. K. Smith, Allen A. Zoll, Joseph P. Kamp, and other anti-Semitic, ultra-nationalist, and neo-fascist leaders. It may be that prosecution under the Smith Act will not be indicated in any of these cases, just as it is probably inadvisable in the case of Madole, although the Velde Committee makes this recommendation.* But clearly their activities, as distinguished from their opinions, fall within the Velde Committee's mandate to investigate "the extent, character, and objects of un-American propaganda activities in the United States." Our Constitutional liberties will gain rather than suffer by such an exposure, and we shall be better enabled to occupy positions of strength in the cold war.

*On this point the American Jewish Committee expressed itself as follows: "We dissociate ourselves from the recommendation in the House Committee's report that the Department of Justice seek an indictment against the National Renaissance party under the Smith Act. We doubt that this is either desirable or advisable."

II

WHEN the Un-American Activities Committee is reorganized under Democratic control, its chairman will be Representative Francis E. Walter, of Pennsylvania, co-author of the McCarran-Walter Act. Libertarians, with some reason, will not regard Mr. Walter as much better than Mr. Velde. It is important to note, however, that the retirement of Kit Clardy will leave the Committee with a majority of better-than-average Congressmen who are also intelligent liberals; also, that the Committee has shown itself disposed to keep its procedures well within the pattern recommended by the National Catholic Welfare Council, the National Council of Churches, and the American Jewish Committee, whom the Committee invited to consult with it in October of 1953.*

It is unlikely, therefore, that when and if the Committee fulfills its promise to extend its investigation of racist and religious hate groups and fascist agitators it will fail to accord these worthies the same consideration that has been accorded recent witnesses before the Committee.

Yet it is most improbable that this will satisfy our civil-libertarian extremists. Realizing this, one is moved to ask: What has happened to the American liberal tradition? How has it come about that genuine liberals—as distinguished from Communist fellow-travelers and dupes—are found continuously directing their chief fire against the investigating committees of Congress, rather than against the subversive forces of the left and right which these committees have helped to expose and checkmate? The forcible destruction of our civil liberties is the first objective of these forces; why, then, must their defense be not only the first, but too often the sole concern of our civil libertarians?

When Congress investigated Alger Hiss, the vast majority of professors, editors, min-

isters, "opinion-molders," liberal and conservative alike, echoed the Communist cry of "witch-hunt," declaring that the Un-American Activities Committee, not Communist subversion, constituted the chief threat to our liberties.† Now again our libertarians are saying, in effect, that the physician is worse than the disease; that the Velde Committee, not neo-Nazi racism, is the proper object of attack.

The physician in this case is Congress, which American liberals traditionally regarded as their ally against "Executive tyranny." It was not until the New Deal that liberals began to look upon Congress as "backward," "obstructive," and frustrating the efforts of a tutelary and forward-looking Executive. Undoubtedly this served to condition in some degree the attitude of the liberals. Important too, no doubt, was the discovery that the Communist conspiracy had involved in one way or another a great many of their nicest friends and acquaintances. Incredulous and indignant, they joined the clamor of the Communists. The latter, of course, wanted no investigation whatever of Communist activities, and covered *all* the investigating committees under the blanket smear of "witch-hunt," "hysteria," "star-chamber proceedings," and "McCarthyism." The result was that exercise by Congress of its investigatory function was soon made to look suspect.

TODAY, nine out of ten liberals seem to believe firmly, and without having read anything more than newspaper summaries of the hearings, that the McCarran Committee's investigation of the Institute of Pacific Relations was a savage inquisition.

†I shall not recapitulate here the lengthy record of the libertarian's negative attitude to any or all investigation or prosecution of "left" subversive elements, but will refer the reader to Alan F. Westin's detailed article, "Libertarian Precepts and Subversive Realities," in the January issue of COMMENTARY. "Libertarians," he concludes, "have tended to exalt procedure to the point where it often dwarfs substantive considerations. . . . Fair procedure, it should be recalled, though the right of every individual under our Constitution, is not a *substitute* for *ascertaining the truth*, but a means of doing so."

*These organizations were sharply berated by a number of liberal groups and Jewish defense agencies for having consulted with the Velde Committee in a joint effort to make committee practice more regardful of individual rights.

Actually, of course, the McCarran Committee achieved its revelations and harvested its crop of forty "victims" who took refuge in the Fifth Amendment, without resorting either to fishing expeditions or to inquisitorial mayhem. Procedurally, in fact, the committee and its staff anticipated many of the reforms adopted subsequently by other investigating committees, and in its final report it authored one of the great documents in the literature of Congressional investigation.

From the beginning, "McCarthyism" was in actuality 90 per cent McCarthy; as a characterization of Congressional investigative methods in general, it was a smear. Whatever the procedural errors of the other Congressional investigators, and they were not negligible, none of them even approximated McCarthy's bulldozing of witnesses, his manipulation of the record, his dictatorial abuse of his powers as chairman. On the whole, the methods of the investigative committees have advanced steadily during the period that ended with the departure of Senator McCarthy from his investigative chairmanship and to this, of course, the criticisms and recommendations of civic agencies have contributed an important part. This advance is made abundantly clear in the just released report of the Senate Committee on Rules, on Rule of Procedure for Senate Investigating Committees.

ONE of the Rules Committee's most informed witnesses was Benjamin Mandel, research director of the Senate Internal Security Committee. In a review of the Communist attitude toward Congressional investigations in general and investigations of Communist subversion and propaganda in particular, Mr. Mandel showed that, dating from Lenin, Communist policy has been either to exploit Congressional investigations for Communist purposes or, when they could not be so exploited, to denounce them. Among the Congressional investigating committees that were for their own purposes ardently supported by the Communists and their sympathizers were the House Com-

mittee on Interstate Migration, four members of whose staff invoked the Fifth Amendment when they appeared before the Senate Internal Security Committee, the LaFollette Civil Liberties Committee, the Senate Committee on Technological Mobilization, and the Senate Subcommittee on Wartime Health and Education. Communist and crypto-Communist support of these investigations, whose staffs unhappily were more or less infiltrated by Communists or Communist sympathizers, was never qualified by any niggling about jurisdiction or procedure.

Liberals tended to echo uncritically the Communist applause of these committees, although some of them wandered far afield and their treatment of witnesses left much to be desired from the libertarian point of view. This, of course, was equally true of some of the historic investigations that are high in the lexicon of the progressive tradition. One thinks, for example, of the baiting of J. Pierpont Morgan during the Pujo investigation, when a publicity man was permitted to plant a midget in Morgan's lap. The great liberal public approved the substance of the Pujo investigation—and were highly impatient when counsel took refuge in procedural "technicalities." The same approval went to Senators Borah, LaFollette, Wheeler, and Walsh for their exposure of the Teapot Dome scandals during the 1920's, to the Truman Committee during the 1940's, and to the Kefauver Committee, despite its something less than impeccable regard for the rights and dignities of the assorted witnesses who came to testify before them on various matters of racketeering and political corruption.

On the other hand, the Un-American Activities Committee and indeed most of the committees investigating subversion have been denounced with equal violence for both the subject matter of their inquiries and their methods. In the words of a pamphlet issued by the Civil Rights Congress (with a foreword by Henry Wallace), the investigation of Communist subversion was designed "to destroy the free channels of expression and wipe out all dissenting opinion."

Much the same note has been struck by many liberal critics. Critics of the committees, moreover, have not been satisfied with attacking the right of the Congress to investigate this whole area, nor with stigmatizing the procedure of the investigators. They have fallen into the habit of challenging the value of the findings: one continually hears, "After all, did they actually find any Communists? Did they ever, except for destroying a few individuals, really expose any conspiracy?" Those willing to read the record and make up their minds not only as to the findings but as to procedures, will find it worthwhile to get from the Government Printing Office representative transcripts of the hearings.* After such an exposure to the record almost any open-minded person is likely to conclude, with most informed students of the matter, that a great volume of evidence was unearthed demonstrating the Communist ties and activities of hundreds of individuals. By this time the various committees working in their diverse areas have developed a most informative picture of the nature and mechanisms of a massive Communist conspiracy reaching into many high (and low) places in the United States. Out of these investigations have come

*Among the most enlightening of these recommended documents are the following: (1) Reports of the Select Committee on Communist Aggression (Kersten) including Special Report No. 2: Treatment of the Jews under Communism; also, by the same committee, Hearings on the Investigation of Communist Takeover and Occupation of Hungary. . . . Poland, Lithuania and Slovakia. . . . Non-Russian Nations of the USSR; Report of the Subcommittee to Investigate Communist Aggression in Latin America. (2) House Committee on Education and Labor, Reports Nos. 15, 16, 17: Investigation of Communist Infiltration into Labor Unions Which Service the Industries of the United States. (3) Senate Committee on the Judiciary, Internal Security Subcommittee: Report on Interlocking Subversion in Government Departments; Report on Institute of Pacific Relations. (4) House Committee on Un-American Activities, Report No. 1115: Civil Rights Congress as a Communist Front; Report of the Communist "Peace" Offensive; Exposé of Communist Activities in the State of Massachusetts; Colonization of America in Basic Industries by the Communist Party of the U. S. A.; Organized Communism in the United States.

recommendations for legislation to facilitate the detection and prosecution of subversives and to counteract and prevent further infiltration.

ONE might have expected that the Communists and their sympathizers would have been disarmed when Congress turned to the investigation of Nazism. They were not, because they feared that any investigation of subversive "political parties" was bound to touch them eventually. As far back as 1935 the *Daily Worker* frothed at the Committee for the Investigation of Nazi Propaganda Activities, declaring that "under the cloak of investigating fascism [it] directed its fire against Communism." (In those days none but extreme libertarians rushed to the protection of the Nazis. It is a measure of the present confusion that today Communists and many liberals are as one in rejecting the Velde Committee, even when it seeks to expose fascist and hate groups.)

Equally revealing is the position taken by the National Lawyers' Guild (listed by the Attorney General as a Communist front organization) in a statement submitted to the Committee on Rules and Administration. The Guild, reads this statement, ". . . does not believe the basic evil in the practices of such 'investigations' as those conducted by the McCarthy and Jenner Committees lies in their procedures or methods. The great evil lies rather in the area of 'Investigation.' . . . Added procedural safeguards will only assure that the injury is done according to approved safeguards."

In short, what really hurts, from the pro-Communist point of view, is the right of Congress to investigate totalitarian subversion, a right which even the most extreme libertarians concede.

On this question the Committee on Rules quotes Justice Holmes: "It must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts."

Another authority quoted in the report is Woodrow Wilson, who wrote in his *Constitutional Government*: "The informing

function of Congress should be preferred even to its legislative function."

Basing itself on these and many other cited authorities, the Committee on Rules concludes:

"Without facts there can be no intelligent debate in Congress or in the public forum. And facts, to be useful, must be communicated. Clearly, therefore, the informing function of Congress cannot be separated from the legislative. Finally, Congress must on occasion investigate to determine whether it should legislate at all on the subject under inquiry. If the facts lead Congress to a negative conclusion, the criticism that the investigation had no legislative purpose and was one merely to inform, is without validity."*

EQUALLY applicable to totalitarianism of the right or left are the Committee's conclusions with respect to inquiry into personal beliefs and associations. On this subject the report says: "Committees of Congress must function in a world of realities. What might have been classified decades ago as private opinion, of no concern to Congress, takes on a different connotation in the light of world events, whose impact Congress may not disregard. The global Communist apparatus is neither a study group nor a debating society."

This is equally true, of course, of the neo-fascist and hate groups with which the Velde Committee has concerned itself. That they

*Most libertarians accept in principle such affirmations of the investigative duty of the legislative branch. Confusion arises when, in implementing this principle, Congressional committees disturb the deeply buried liberal illusion that the Communists are just another political party, a little further to the left perhaps, and bolder in its expression of "political dissent," yet still an entirely legitimate political association whose investigation by Congress is an invasion of the First Amendment freedoms of speech and assembly. Not until a year ago did the ACLU formally repudiate this position.

do not at present constitute a clear and present danger to our society does not mean that we are obliged either to ignore their activities, or to spread over them the protective mantle of an increasingly unreal classic libertarianism.

In addition to seconding the adoption by the Senate of the three rules already embodied in the Legislative Reorganization Act of 1946, the Committee makes twelve procedural recommendations. Liberals who were sure no good could come out of a committee presided over by Senator Jenner, just as they were sure that the Watkins Committee would never censure Senator McCarthy, are reading the Rules Committee's procedural recommendations with something like shock and incredulity. Even the American Civil Liberties Union is obliged to say that its reactions to the report are mixed. It regrets that the Committee did not recommend ruling out one-man committee hearings or letting witnesses confront and cross-examine their accusers. For the rest, however, the libertarians get about three-quarters of what they asked for, including limiting the questioning of witnesses to committee members and their staff, advance notice to witnesses concerning the subject matter of their examinations, and prohibiting the release of executive committee testimony except by the full committee.

If the Senate adopts the Rules Committee's recommendations, as it probably will, maybe that will serve to relax in some measure the present liberal quarantine of the Congressional investigating committees. In any case, it is time for a general reexamination of the classic libertarian position. Time—and totalitarians—march on. The nation is not prepared to lose the cold war, either at home or abroad, just to accommodate uninformed and rigid libertarians whose resemblance to the celebrated Michael Shay (he died defending his right of way) becomes increasingly apparent.